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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/589,100

11/02/2007

Ian Andrew Maxwell

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EXAMINER

WANG, LIANG CHE A

ART UNIT

PAPER NUMBER

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MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,100	Applicant(s) MAXWELL ET AL.	
	Examiner Liangche A. Wang	Art Unit 2453	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 22-30 and 32-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20071102</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-21, 31 are presented for examination.
2. Claims 22-30, and 32-34 are withdrawn in Response to Election/Restriction Filed.

Paper Submitted

3. It is hereby acknowledged that the following papers have been received and placed of record in the file:
 - a. **Information Disclosure Statements** as received on 11/02/2007 is considered.

Specification

4. The disclosure is objected to because of the following informalities:
 - a. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title

6. Claims 1-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to software per se, which does not fall into the categories of “process”, “machine”, “manufacture” and “composition of matter”. Referring to claim 1, claim 1 recites the limitation, a content distribution system

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including a registration module, an activity module and a transaction module, where the modules could be software modules which directs the claim to software per se.

All dependent claims are rejected to as having the same deficiencies as the claims they depend from.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 recites a content distribution process as claimed in claim 19. However claim 19 recites a content distribution system not a content distribution process. The examiner views claim 21 as a content distribution process as claimed in claim 20 for further examination.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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10. Claims 1-8, 10-14, 16-18, 20-21 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Ukita, EP 1347617 A2, hereinafter Ukita.
11. Referring to claim 1, Ukita discloses a content distribution system (figure 3), including:
 - a. a registration module for receiving registration data for a digital item accessible (content data), on a communications network (network 2), using a digital item client (content provider 13) on a first device (computer 3)(Col 2 [0011], content data are registered);
 - b. an activity module for receiving a request for content of said digital item from said client on a second device (computer 4)(Col 15 [0154] computer 3 receives download request from computer 4); and
 - c. a transaction module for registering download of said content to said second device, for processing payment transactions with said second device, and for processing remuneration transactions with at least said first device (Col 2 [0018], Col 16 [0158] page 17 [0176] [0182]).
12. Referring to claim 2, Ukita discloses the content distribution system as claimed in claim 1, wherein said digital item is accessible on a P2P network (Col 2 [0010] peer-to-peer system).
13. Referring to claim 3, Ukita discloses the content distribution system as claimed in claim 1, wherein said digital item client is a P2P client (Col 2 [0010], figure 1, Col 7 [0056]).
14. Referring to claim 4, Ukita discloses the content distribution system as claimed in claim 1, wherein said digital item references said content for access by said second device without payment, such as by streaming (figure 10, Col 15 [0154] [0155]).

15. Referring to claim 5, Ukita discloses the content distribution system as claimed in claim 1, wherein said digital item includes by reference said content for download and other content accessible by said second device without payment (figure 10, Col 15 [0155]).
16. Referring to claim 6, Ukita discloses the content distribution system as claimed in claim 1, wherein said remuneration transactions include storing credit data for a user of said first device (figures 3 and 10, Col 15 [0157]).
17. Referring to claim 7, Ukita discloses the content distribution system as claimed in claim 6, wherein said credit data represents credits that can be used for payment of requested content (figures 3 and 10, Col 15 [0158]).
18. Referring to claim 8, Ukita discloses the content distribution system as claimed in claim 1, wherein at least said digital item client on said first device includes a creator module for authoring digital items, said creator module generating interfaces for:(i) adding and editing of content for a digital item;(ii) editing and establishing a digital item declaration for said digital item; and(iii) adding buy data for said digital item by including resources or metadata in said digital item declaration (figure 4, Col 7 [0055-0057], Col 8 [0077]).
19. Referring to claim 10, Ukita discloses the content distribution system as claimed in claim 1, including a search module for generating a search interface to a search engine for processing search queries in relation to content on said network, and providing responses with references to digital items (Col 10 [0098], Col 16 [0170-0171]).
20. Referring to claim 11, Ukita discloses the content distribution system as claimed in claim 10, wherein said responses are ranked based on a ranking criteria selected by a user of said search interface, and the ranking criteria includes at least one of:(i) reviews for a

digital item;(ii) reviews for an author of a digital item;(iii) level of access of a digital item; and(iv) level of purchase of a digital item (Figure 4, number times of viewing).

21. Referring to claim 12, Ukita discloses the content distribution system as claimed in claim 1, wherein the digital item includes buy data used to generate a buy button for said content, which on selection by a user on said second device, generates said request (Col 15 [0157]).

22. Referring to claim 13, Ukita discloses the content distribution system as claimed in claim 1, wherein said content is downloaded from a location referenced, directly or indirectly, by said digital item (Col 15 [0155]).

23. Referring to claim 14, Ukita discloses the content distribution system as claimed in claim 1, wherein said digital item references an unauthorised copy of said content and includes buy data for an authorised copy of said content (figure 4).

24. Referring to claim 16, Ukita discloses the content distribution system as claimed in claim 6, wherein said digital item references said content available on a site of an affiliate, and said remuneration transactions include storing said credit data representing a payment from said affiliate (figure 3).

25. Referring to claim 17, Ukita discloses the content distribution system as claimed in claim 1, wherein said payment transactions include obtaining payment from the user of said second device for said remuneration (Col 15 [0157]).

26. Referring to claim 18, Ukita discloses the content distribution system as claimed in claim 2, wherein said digital item client is adapted to place a number of digital items on said P2P network, and said digital items include or reference one or more content elements,

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such as audio, video, images, text or graphic elements, and the content elements are public domain, unauthorised, or authorised elements (Col 6 [0046]).

27. Referring to claim 20, Ukita discloses a content distribution process, including: receiving registration data for a digital item accessible, on a communications network, using a digital item client on a first device; receiving a request for content of said digital item from said client on a second device; registering download of said content to said second device; processing payment transactions with said second device; and processing remuneration transactions with at least said first device (see rejection to claim 1).
28. Referring to claim 21, Ukita discloses the content distribution process as claimed in claim 20, including acceptance of registration data when a user of said first device has contributed content, metadata or a digital item declaration for said digital item (figure 10).
29. Referring to claim 31, Ukita discloses a content distribution system, including: means for referencing a digital item accessible, over a communications network, using a digital item client on a device, wherein complete content of said digital item is accessible, without payment using said client (Col 15 [0154]); and means for processing payment transactions with said client to enable said client to download said content to said device (figure 10, Col 15 [0157-0158]).

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 9, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ukita.

32. Referring to claim 9, Ukita discloses a system as described in claim 8, and Ukita further discloses wherein said digital item and digital item declaration is a video (Col 6 [0046]).

Although Ukita does not specifically disclose wherein said digital item and digital item declaration compiles with MPEG-21, however MPEG-21 is a known standard format for all major media players in the market.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate the MPEG-21 to Ukita because MPEG-21 is a well known format for video.

A person with ordinary skill in the art would have been motivated to provide a standard and popular format for the ease of using for consumers.

33. Referring to claim 15, Ukita discloses a system as described in claim 6, Ukita does not disclose using a percentage to represent credit data and remuneration for a publisher or creator of said content. However percentage is a well know feature to present a quick index to users.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate the percentage representation to Ukita because Percentage is a common method for indicating a scale.

A person with ordinary skill in the art would have been motivated to provide a quick reference to user indicating the amount of credit the user is having in the account.

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34. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ukita in views of Ricci, US Publication Number 2002/0062290, hereinafter Ricci.

35. Referring to claim 19, Ukita discloses a system as described in claim 6, Ukita does not explicitly disclose wherein said client is adapted to present advertising information based on advertising data served to said client, said advertising data being based on demographic data stored by said system for a user of said client.

Ricci discloses wherein said client is adapted to present advertising information based on advertising data served to said client, said advertising data being based on demographic data stored by said system for a user of said client (abstract, page 2 [0036], page 3[0051]).

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to combine Ricci and Ukita because both disclose media communication on a P2P network.

A person with ordinary skill in the art would have been motivated to enhance the commercial interaction possibilities with users based on recorded personal demographic data as taught by Ricci.

Conclusion

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by

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the references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liangche A. Wang whose telephone number is (571)272-3992. The examiner can normally be reached on Monday thru Friday, 8:30 am to 5:00 pm.
38. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
39. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Liang-che Alex Wang
May 20, 2010

/Liangche A. Wang/
Primary Examiner, Art Unit 2453